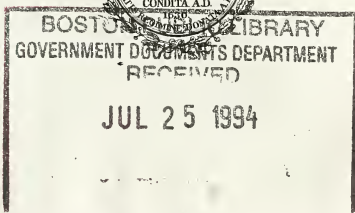


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INTRODUCTION
TO
THE CONFLICT
OF INTEREST LAW
FOR
CITY OF BOSTON
EMPLOYEES





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CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
THOMAS M. MENINO

February 24, 1994

Dear City of Boston Employee:

It is a privilege to work as an employee for the City of Boston and to provide services for the people who live here and work here. Every individual must be treated equally and fairly and must be confident that the conduct of their representatives in city government is above reproach.

As Mayor, I hold myself to the highest standard of integrity and I insist that everyone employed by the City of Boston during my tenure adheres to the same standard.

This brochure, "Introduction to the Conflict of Interest Law for City of Boston Employees," describes your ethical responsibilities to the people of Boston.

High standards of ethics and conduct ensure that we, as public servants, will carry out our obligations honestly and fairly. Thank you for joining me in this commitment to the people of Boston.

Sincerely,

Thomas M. Menino
Mayor of Boston

BOSTON CITY HALL • ONE CITY HALL PLAZA
BOSTON • MASSACHUSETTS 02201 • 617/635-4000

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Bribes

The conflict-of-interest law prohibits you from accepting *anything* that is given to you with an “intent to influence” your official actions. Anything — of any value — may be considered a bribe if it is given to you in exchange for your agreeing to take some type of official action (or if you agree to not take an official action you would otherwise take).

Gifts and Gratuities

The law prohibits you from accepting anything “of substantial value” that is given to you for or because of your official duties. You may not accept anything worth \$50 or more if it is given to you because of something you did, or might do, as a city employee. Examples of regulated gratuities include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. *Generally, if the gift-giver is someone you deal with in your city job, then the gift is being given to you “because of your official duties”, and you may not accept it if it is worth more than \$50.*

If you are offered a prohibited gift:

- you may refuse or return it;
- you may donate it to a non-profit organization (but you may not take the tax write-off);
- you may pay the giver the full value of the gift; *or*
- in the case of certain types of gifts, it may be considered a “gift to the city” provided that it stays in the office and does not ever go home with you.

Multiple gifts. You may *not* accept multiple gifts from the same person or company if the total value of all the gifts is more than \$50. Also, you may not accept more than a total of \$50 worth of gifts from different sources sharing a “common interest” (e.g., companies that all want your agency to adopt a specific regulation).

Standing offers. The law treats a standing offer (e.g., “I can get you Celtics tickets anytime you want them”) as if it were a case of multiple gifts. *You should refuse standing offers, since they are almost always worth more than \$50.*

Special case: “Legitimate speaking engagements.” You *may* be reimbursed for limited travel, accommodation and meals expenses related to a “legitimate speaking engagement.” However, in order to qualify for this exemption: [1] you must be the one giving the speech (the expenses of accompanying staffers are not eligible for the exemption); [2] the speech must be formally scheduled (on the agenda) well in advance of the event; [3] the speech must “contribute significantly” to the event (i.e., must be substantive, rather than perfunctory); [4] the audience must be a group which would normally have outside speakers address them at similar events; and [5] you may be reimbursed only for those expenses which are necessary for you to give the speech (e.g., one day’s worth of hotel and meals expenses would be allowed). *You may not ever accept honoraria for a speech that is in any way related to your official duties.*

Construction Contracts

If your job involves awarding public construction contracts, you may *not* require that bidders use a particular company to obtain surety bonds or insurance.

Acting on Behalf of Others

While you are a City employee, you may not act as agent or representative for anyone other than the City in connection with any matter involving the City. For instance, you may not contact a City agency on behalf of a private individual, company, not-for-profit organization, group, association, or other special interest. You may not appear before a City agency on someone else’s behalf. You may not allow your name to be used on documents which are submitted to a City board by someone else. You may not serve as

spokesperson or otherwise represent anyone in connection with City business.

Also, you may not be paid (or receive any other type of compensation), by anyone other than the City of Boston in relation to any matter that involves the City.

Special case: Constituent services. If your job involves constituent assistance or otherwise requires that you contact City agencies on others' behalf, you may act as someone's agent whenever:

- a. you receive no compensation other than your official salary;
- b. you, personally, have no financial interest in the matter;
- c. you do not have a personal relationship with the constituent (e.g., the constituent is not a relative or business associate);
- d. you do not act as the constituent's attorney;
and
- e. the constituent lives or does business in Boston.

Special case: "Special" municipal employees. If your job is designated a "special municipal employee" position (see the definition of "special municipal employee" at the end of this brochure), you *may* be paid in connection with a matter that involves the City, provided that:

- a. you have never personally participated in the matter while employed by the City;
- b. the matter is not within your official jurisdiction as a "special" City employee; *and*
- c. the matter is not pending before your City agency.

If you serve as a "special municipal employee" for less than 60 days a year, you may be paid even if the matter *is* pending before your City agency.

Special case: Personnel proceedings. You are generally allowed to act as an agent for someone who is the subject of disciplinary or other personnel proceedings, provided that:

- a. you are not paid (or otherwise compensated) for the representation; *and*
- b. your actions are not inconsistent with your job responsibilities.

Special case: Family members. If you are an appointed employee, you are generally allowed to act as an agent for: members of your immediate family

(yourself, your spouse, your parents, your siblings, your children, your spouse's parents, your spouse's siblings, and your spouse's children), or any person for whom you serve as guardian, executor, administrator, trustee or personal fiduciary, provided that:

- a. the matter is not within your official jurisdiction as a City employee;
- b. you have never personally participated in the matter while employed by the City; and
- c. you get prior, written permission from your appointing authority (see the definition of "appointing authority" at the end of this brochure).

Special case: Contracts with the City. If your job is designated as a "special municipal employee" position, you are generally allowed to assist with work being performed under a contract with the City, provided that the head of your department or agency certifies in writing that "the interest of the City" requires your assistance (a copy of this certification must be filed with the City Clerk).

Special case: Testimony. You are always allowed to give testimony under oath, and to make statements under penalty of perjury.

Special case: Acting on your own behalf. You are always allowed to represent yourself, and to state personal points of view. *However, you should always make it clear that you are acting on your own behalf, and not acting in any official capacity.* You may even represent yourself before the City agency you work for (but remember that you may not take any type of official action on a matter that affects you).

Former City Employees Business Partners of Employees

You may not ever be paid by anyone other than the City in connection with any specific matter you worked on as a City employee. Matters subject to this prohibition will include anything you ever approved, disapproved, decided, made recommendations about, investigated, advised on, "signed off" on — or in any *other* way substantially affected — while you were a City employee.

Even if you are *not* paid to do so, you may not ever act as agent, representative, spokesperson, or attorney for anyone in connection with any specific matter you worked on as a City employee.

Your business partners may not act as agent, representative, or attorney for anyone other than the City in connection with any specific matter you worked on as a City employee, or any matters which are under your official jurisdiction.

For one year after you leave City employment, your business partners may not be paid — or even act as an *unpaid* agent or representative — in connection with any specific matter you worked on as a City employee.

Matters under your official jurisdiction. If the matter was *not* something you personally participated in (through approving it, making recommendations, etc.) but *was* something under your official jurisdiction within the two years before you left City employment, you must wait a year before personally appearing before any City agency or Board in connection with the matter.

Prohibited Actions

You may not ever take any type of action on matters that would affect your own financial interests, or the financial interests of:

- members of your immediate family (your spouse, your parents, your siblings, your children, your spouse's parents, your spouse's siblings, and your spouse's children);
- a business or charitable organization for which you serve as an officer, board member, director, trustee or partner;
- a private "after hours" employer; or
- any person or organization with whom you are negotiating future employment, or with whom you have an agreement regarding future employment.

Prohibited actions include approving, disapproving, deciding, making recommendations about, investigating, advising, voting, "signing off" on, advocating, or in any *other* way substantially affecting the matter.

Nepotism: You may *not* hire, fire or supervise members of your immediate family. Also, you may *not* take any action regarding salary increases, union negotiations, budget items, or other matters which would affect an immediate family member's financial interests.

Competitors. If the conflict law prohibits you from taking action affecting someone's financial interests, you are *also* prohibited from taking actions affecting his or her direct competitors. For instance: if you are employed "after hours", you may not take any action affecting your employer's geographic competitors; if your sister applies for a job in your department, you may not help interview other applicants for the position.

Prior approval. If you are an appointed employee, you may apply for a written exemption to this section of the law. Before taking any action, you must first:

- a. tell your "appointing authority" (see the definition at the end of this brochure) about all the facts and circumstances which lead to the conflict; *and*
- b. get a *written* determination from your appointing authority that the financial interest involved in the matter is so small that it will not affect your professional integrity.

Special case: Bank deposits. If your job involves depositing City funds in a bank that you have a financial interest in, you must file a public disclosure of your interest with the City Clerk's office.

Special case: General policy. You may act on matters involving City Ordinances or other general policies, provided that the issue affecting your financial interests (or the financial interests of your immediate family members) also affects a "substantial segment" of the City's population.

Contracts with the City Multiple City Positions

Except in special circumstances, you may not have a financial interest in a contract with the City.

Except in special circumstances, you may not hold more than one City position.

Special case: Stock ownership. You may own less than 1% of the stock of a company with City contracts.

Special case: Competitive bidding. You may have a financial interest in a company with City contracts *if*:

- a. the contracts are with a City agency *other* than the department you work for;
- b. you do not have official jurisdiction over the contracting department;
- c. the department you work for does not regulate the contracting agency;
- d. the contract is awarded by a public, competitive bid process; *and*
- e. you file a disclosure of your interest in the contract with the City Clerk.

Special case: Personal services contracts. You may have a second, paid position (i.e., act as a consultant or serve as a personal services contractor) with the City *if*:

- a. the consulting contract is with a City agency *other* than the department you “regularly” work for;
- b. in your “regular” City job, you do not have official jurisdiction over the department which is contracting with you for the additional consultant work;
- c. the department you “regularly” work for does not regulate the contracting agency;
- d. the consulting contract is awarded by a public, competitive bid process;
- e. you file a disclosure of your interest in the consulting contract with the City Clerk;
- f. the consulting services will be performed after hours (i.e., during hours other than those you are scheduled to spend working at your “regular” City job);
- g. the consulting services are not part of the official duties or job description of your “regular” City job;
- h. the head of the department you would be contracting with files a written statement with the City Clerk, certifying that no current employee of that department is able to perform the services you are contracting to provide; *and*
- i. the City Council votes to approve your holding the consulting contract.

Special case: “Special” municipal employees. “Special” City employees (see the definition of “special municipal employee” at the end of this brochure) may

have a financial interest in contracts with the City *if* you file a statement describing your interest in the contract with the City Clerk, *and*

- the City Council votes to exempt you from this section of the law; *or*
- in your City position, you do not work for the contracting agency, nor do you have official jurisdiction over the contracting agency, nor do you participate in any of the activities of the contracting agency.

Special case: Federal housing grants. You *may* receive rental assistance, rehabilitation grants, or other benefits from housing programs which are funded by the federal government.

Special case: Boston Housing Authority employees.

- You *may* receive housing subsidies from the City, unless your City job involves administering the subsidy program.
- You *may* rent property to tenants receiving housing subsidies, unless your City job involves administering the subsidy program.
- You *may* hold any elected office other than Mayor. However, you may receive only one salary from the City (you must choose between your Housing Authority salary and any compensation offered for the elected office), *and*, in your elected position, you may not take any action which would affect the Boston Housing Authority.

Special case: Elected officials.

- Elected officials may hold multiple elected positions.
- If you are an appointed (or “regular”) City employee, you *may* run for elected office. However, you should contact the City Law Department (617-635-4034) or the Legal Division of the State Ethics Commission (617-727-0060) for more information on how your activities would be restricted if you are elected.
- If you are an employee of the Boston Housing Authority *and* an elected official, you may not be appointed to any additional City job until six months after you leave the elective office. For more information, contact the Legal Division of the State Ethics Commission (617-727-0060).

Boards and Commissions

You may not be appointed or elected to any position by the members of a Board or Commission on which you serve.

Also, if you are a member of a City Board or Commission, you may not be appointed or elected to any position under the direct supervision of that Board or Commission.

Also, if you leave the Board or Commission, you must wait 30 days before applying for any position which is appointed by the Board or Commission, or which is under the direct supervision of the Board or Commission.

Undated Resignations

You may *not* be asked for an undated resignation letter as a condition of your appointment to a Commission or Board.

Standards of Conduct

You may not accept any type of other employment which is “inherently incompatible” with your City position.

If your job involves working with confidential information, you may not ever publicly reveal that information, or use it for private or political purposes. Anything that is not a “public record” under the Massachusetts Public Records Law is considered confidential. This includes: certain types of personnel records; information about discussions and actions taken while a board or commission was in Executive Session; and certain medical and law enforcement records.

You may not use your official position to obtain any type of “unwarranted privilege” for yourself or anyone else. For example:

- **You may not use official resources** (e.g., City cars, office equipment, stationery, an official uniform, the City seal) for personal or political purposes.
- **You may not use your official position** to get any type of preferential treatment for yourself or anyone else.
- **You may not use your official title** to endorse products or activities.
- **You may not solicit subordinates, regulatees or vendors** for any reason whatsoever. Unless there is a special state law or city ordinance that allows it, you may not solicit charitable contributions, product sales, political contributions or support, any type of personal business relationship, or anything else “of substantial value” from anyone who is under your official jurisdiction.

You may not take any type of official action that could create an appearance of impropriety, or could cause an impartial observer to believe that your actions are tainted with bias or favoritism. Before taking any type of action which could appear to be biased, you must *first* file a full, written disclosure of all the relevant facts with the City Clerk. Instances where you should file such a disclosure include: actions affecting the financial interests of a relative (even if the relative is not an immediate family member); actions involving a friend, neighbor, business associate, or anyone with whom you have a prior personal or professional relationship; actions involving people or organizations that you have a personal bias against.

Getting Further Information

If you have questions about how the Conflict of Interest Law would apply in a specific situation you are considering, you are entitled to a free legal opinion from the City’s Law Department, or from the Legal Division of the State Ethics Commission. Remember that you should ask for legal advice *before* taking an action, rather than after-the-fact.

The City of Boston Law Department may be reached at 617-635-4034, or mail a request letter to the City of Boston Law Department, Room 615, Boston City Hall, Boston, Massachusetts 02201. Note that legal opinions given by the Boston Law Department are a matter of public record.

The “Lawyer of the Day” at the State Ethics Commission may be reached between 2:00 p.m. and 5:00 p.m. every business day at 617-727-0060, or you may mail a request letter to the State Ethics Commission, Room 619, One Ashburton Place, Boston, Massachusetts 02108. Note that legal opinions given by the Ethics Commission’s Legal Division are confidential by statute. Unless you publicly disclose that you have requested an opinion, opinions given by the Ethics Commission will not be released to anyone without your consent.

Definitions

“Appointing Authority”. The appointing authority will vary depending upon what your City position is. Elected officials do not have appointing authorities. Your appointing authority is the person or board that has the authority to hire or fire you. If you have questions about who your appointing authority is, call the City Law Department at 617-635-4034.

“Special Municipal Employee”. “Special” City employees are people who:

- a. hold a position with, or perform public services for, the City of Boston;
- b. work for the City for less than 800 hours a year, or who hold a contract or position which allows for private employment during “normal working hours”;
- c. hold a position which the City Council has designated to be a “special municipal employee” position; *and*
- d. are not the Mayor, nor a member of the City Council.

Mayor Thomas M. Menino issued the Boston Ethics Initiative of 1994 Executive Order on February 24, 1994, and the Initiative is coordinated by Gary L. Sandison. This brochure is prepared with the assistance of the State Ethics Commission.